

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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VICTOR J. DEFAZIO, JACK FINKELSTEIN,  
JAMES COLLINS and HENRY GEBHARD,

Plaintiffs,

**ORDER**

CV 05-5712 (ADS)(ARL)

-against-

KEVIN WALLIS, et al.,

Defendants.

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**LINDSAY, Magistrate Judge:**

Before the court is the plaintiffs' letter application dated September 1, 2006, seeking leave to conduct non-party depositions in advance of the Rule 26(f) conference. The defendants, Kevin Wallis & Ryan Greenberg, oppose the application by letter dated September 5, 2006. For the reasons set forth below, the application is denied.

Fed. R. Civ. P. 26(d) provides that except when authorized by order, "a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)." The plaintiffs have not provided the court with an adequate reason why the court should issue an order departing from that rule. However, the parties shall meet and confer, as soon as practicable, but in any event before September 29, 2006. The pendency of the defendant's appeal of this court's order regarding its motion to disqualify plaintiffs' counsel does not absolve the defendants from their discovery obligations. The initial conference will be scheduled by the court shortly.

Dated: Central Islip, New York  
September 6, 2006

**SO ORDERED:**

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/s/  
ARLENE R. LINDSAY  
United States Magistrate Judge